

Minutes
Otay Ranch POM PMT Meeting
1800 Maxwell Road, Lunch Room
Chula Vista, CA 91911

May 28, 2008
10:00 am - noon

Approved by POM PMT on 10/29/08
Motion to approve by City of Chula Vista/SCOTT TULLOCH
Motion Seconded by County of San Diego/CHANDRA WALLAR
Motion carried.

ATTENDEES:

City of Chula Vista

Scott Tulloch, Assistant City Manager
Marisa Lundstedt, Principal Planner
Josie McNeeley, Associate Planner
Amy Partosan, Administrative Analyst
Merce LeClair, Administrative Analyst
Boushra Salem, Senior Civil Engineer
Iracsema Quilantan, Civil Engineer

County of San Diego

Chandra Wallar, Deputy Chief Administrative Officer, Land Use & Env. Group
Claudia Anzures, County Counsel
Renée Bahl, Director, Department of Parks and Recreation (DPR)
Trish Boaz, Chief, DPR
Maeve Hanley, Group Program Manager, DPR
Cheryl Goddard, Land Use Environmental Planner, DPR
Larry Duke, District Park Manager, DPR
LeAnn Carmichael, Planning Manager, Department of Planning and Land Use

Public

Dave Mayer, CA Dept. of Fish and Game
Libby Lucas, CA Dept. of Fish and Game
Michael Beck, Endangered Habitat League
Tom Tomlinson, McMillin
Rob Cameron, Otay Ranch Company
Sean Kilkenny, Otay Ranch Company
Lindsey Cavallaro, EDAW
Frank Ohrmund, Friends of OVRP

ATTACHMENT A – Meeting Sign-in Sheet

Agenda Item Numbers noted in parentheses

1. Call to Order

(I.) Meeting called to order at 10:07am by City of Chula Vista/SCOTT TULLOCH.

2. Approval of PMT (PMT) Meeting Minutes of March 7, 2008

(II.) County of San Diego/CHANDRA WALLAR motioned to approve the meeting minutes. Motion seconded by TULLOCH. Motion carried.

3. Public Comment on items not related to Agenda

(III.) TULLOCH opened and closed with no comment.

4. Status Report

(IV.A.1.a) County of San Diego/LEANN CARMICHAEL reported on the Board Policy I-109 Otay Ranch Implementation Document Amendment (*initiated by the County of San Diego*) - Adoption of Phase 2 RMP and Preserve Boundary Modifications - CARMICHAEL stated the County Planning Department will bring a recommendation to amend the Resource Management Plan Phase 2 to the Planning Commission this Fall, then to the Board of Supervisors for their consideration.

(IV.A.1.b) CARMICHAEL reported that the Applicant for Village 13, the Otay Ranch Company, requested a due date extension to submit requested documents in September. With this due date extension request, the end date for Village 13 will be pushed into 2009.

(IV.A.1.c) CARMICHAEL reported that the County has initiated final revisions to the hearing reports for the County's Wolf Canyon Vacation/Replacement application. County staff has requested updated exhibits from the Applicant, the Otay Ranch Company. The issue of future infrastructure will be discussed as an item later on today's agenda. County staff will coordinate with the City on hearing dates per the City's request. County anticipates the Board of Supervisors to consider this project in the Fall.

WALLAR introduced CARMICHAEL as the new DPLU Preserve Owner/Manager representative and asked her to provide some background.

CARMICHAEL stated that she has been with the County for 20 years and has worked on large-scale projects such as 4S Ranch and the County's General Plan.

MICHAEL BECK asked what Preserve boundary modifications are associated with the adoption of the Phase 2 RMP.

CARMICHAEL stated that the Preserve boundary modifications are intended to make the County and the City's Preserve boundary consistent. Changes were made to the City's Preserve boundary per the City's adoption of its General Plan Update, MSCP, and Villages 2, 3, 4 (por) projects.

(IV.A.2.a) City of Chula Vista/JOSIE MCNEELEY reported on the Championship Off-Road Race (CORR) Conditional Use Permit for the 2008-2009 race season. The races are to take place within the Rimrock Quarry. The races are comparable to the 2007 CORR events. The first race is scheduled for July 25th with remaining events to follow in September and December. Technical studies have been completed. The environmental document for the project completed its public review period from April 25th to May 25th. Two comment letters were received from the Otay Land Company and the Wildlife Agencies. The project is to be heard by the City's Planning Commission on June 25th and the City Council will consider this project in July.

WALLAR requested copies of the comment letters.

MCNEELEY stated she would forward the request to the City's CORR project manager.

(IV.A.2.b) City of Chula/MARISA LUNDSTEDT reported on the City's Wolf Canyon Vacation/Substitution application. The City is undergoing a similar process as the County on this application. The City has everything prepared and is coordinating with the County on proposed hearing dates.

(IV.A.2.c) LUNDSTEDT reported on the City's University Agreements. The City Council approved the Otay Land Company land offer agreement on April 15th. Basics of that land agreement offer includes, Otay Land Company offered the City 160 acres of mitigation land and 50 acres for a regional technology park/University. Otay Land Company also offered \$2 million, \$1 million to be paid to the City immediately and the other \$1 million after land entitlements have been processed.

The majority of the 160 acres is located within the Otay Valley Parcel with a small sliver north of the lakes. The 160 acres is currently offered as an IOD and will not be transferred to the City in fee title until the land entitlements have been processed.

WALLAR asked how much of the 160 acres is within the Otay Ranch Preserve.

LUNDSTEDT estimated approximately 150 acres of the land within the Otay Valley Parcel is within the Preserve. The small sliver north of the lakes is not part of the Preserve. It is currently a development bubble that is adjacent to other development land previously acquired by third parties for open space purposes.

LUNDSTEDT reported that the next step for this land offer agreement is the full entitlement process which will include a public review period.

LUNDSTEDT reported on the Baldwin Land Offer Agreement. This Agreement was approved by the City Council on May 20th. This land offer agreement includes the dedication of 160 acres of development land/University/technology park as well as an offer from the City to Baldwin of 60 acres in the Salt Creek area. This area is to be used as a possible mitigation site for biological impacts and encroachments into the Preserve. IODs have been offered for these lands but the transfer of the lands will not occur until entitlements have been processed.

WALLAR asked for clarification of the 60 acres offered by the City to Baldwin.

LUNDSTEDT stated that this land is a possible mitigation site if there are encroachments into the Otay Ranch Preserve. This would also require future review and commenting by the Wildlife Agencies.

LUNDSTEDT reported that the City anticipates the entitlement process for the Otay Land Company and Baldwin to be 2 years after a complete entitlement application is received.

WALLAR asked if these Agreements trigger any need for future infrastructure on the associated land offer properties.

LUNDSTEDT stated that any proposed boundary modification would involve the POM. Future infrastructure to serve the University should not be an issue.

WALLAR asked what the next steps of the Agreement are. Are they to go through the typical development process?

LUNDSTEDT stated yes.

TULLOCH stated that the City anticipates receiving applications from the developers then it is estimated to be a two year timeframe from that point to take the project to the City Council for their consideration.

WALLAR asked if it were just Otay Land Company, Baldwin and Associates, and the City that are involved with these Agreements.

TULLOCH stated that it was just Otay Land Company and Baldwin and Associates for now. City will still need to work with other neighboring land owners. The City will own 2/3 of the University site. Those will be on a separate timeline.

BECK asked for access clarification on the property the City has offered to Baldwin. BECK asked if any access will be taken through Salt Creek to get to this offered land by the City to Baldwin.

TULLOCH stated that the University is going to be located west of Salt Creek. The land offered to Baldwin east of Salt Creek is intended to be used as mitigation land.

ROB CAMERON asked if any access would cross through Salt Creek.

TULLOCH stated that there are no plans to provide access through Salt Creek as the development is west of Salt Creek and there are other planned access points to the University.

(IV.A.3.a) MCNEELEY reported on the OVRP Trails Coordination occurring in eastern OVRP east of Heritage Road and west of Otay Lakes. MCNEELEY stated that JPB Development (JPB) approached the OVRP Joint Staff regarding trail planning from Heritage Road to lower Otay Lakes in September 2007. JPB has submitted a binder containing regulation documents for this area and an issues matrix. OVRP Joint Staff provided comments on the proposed submittal in March. The comment letter also included comments from City MSCP and POM staff. JPB is currently reviewing the comments. A field trip was scheduled in April with JPB. The next steps are for JPB to respond to comments and submit a revised plan.

(IV.B.1) County of San Diego/CHERYL GODDARD presented the Preserve status and stated that Preserve Status maps have been provided as handouts. GODDARD stated that today's presentation would only focus on pending conveyances, those lands shown in turquoise and yellow on the maps. Turquoise lands are those anticipated to be accepted by the POM by the end of the calendar year and the yellow lands have outstanding issues in which the POM anticipates accepting these lands within 1-2 years.

GODDARD stated there are approximately 796 acres that is anticipated to be conveyed to the POM by the end of the calendar year. The first property is offered by Brookfield Shea, approximately 41 acres. The County accepted this IOD in late 2006. The City Engineering Department has approved the Preliminary Title Report and POM staff anticipates that this IOD be signed and accepted by the City within the next two weeks.

GODDARD stated that the Otay Ranch Company is offering 525 acres to the POM as conveyance obligations. Otay Ranch Company submitted Preliminary Title Reports and Grant Deeds for these properties in March 2008. They are working on the Phase I reports, placing property markers, and providing legal and physical access to the lands. Staff has completed a site visit with the Applicant. POM staff anticipates accepting these lands within this calendar year.

GODDARD stated that McMillin is offering 230 acres as conveyance obligation lands. McMillin has the Preliminary Title Report and Phase I report prepared. They have placed property markers on the land. They are currently working with POM staff on legal and physical access to the property. POM staff anticipates accepting this land within this calendar year.

GODDARD reported on the pending conveyances with outstanding issues. These are lands shown as yellow in the map included in the handout packet. These lands total approximately 740 acres.

GODDARD stated that Otay Ranch Company is offering 73 acres within the Wolf Canyon area. Outstanding issues include the processing of the IOD vacation/replacement - as reported by CARMICHAEL and LUNDSTEDT the vacation/replacement application is to be heard by the Board of Supervisors and the City Council this Fall; future infrastructure – which is to be addressed later in today's agenda; and a small area within Wolf Canyon requires Maritime Succulent Scrub restoration and achievement of 5-year success criteria to be approved by the Wildlife Agencies – the restoration is currently in year 1.

GODDARD stated that Otay Ranch Company is also offering 559 acres north of Village 13. These lands will not be accepted by the POM until the Board of Supervisors approves a final development/Preserve design. As reported earlier by CARMICHAEL, the Board of Supervisors is anticipated to consider this project in 2009.

GODDARD stated that Brookfield Shea is offering 109 acres within the Salt Creek area. These lands are undergoing Wildlife Agencies' required restoration. The land is currently starting its fourth year of a 5 year success criteria. Future infrastructure is also an outstanding issue. Being that the land is in year 4 of a 5 year success criteria, POM staff anticipates accepting these lands within two years.

5. Policy Decision Issues

(V.A.) County of San Diego/MAEVE HANLEY presented the background to Future Infrastructure. It has been found that future infrastructure can be a compatible use within the Preserve per Policy 6.6 of Phase I RMP and Section 6 of the City's MSCP Subarea Plan. Per Phase 1 RMP, infrastructure facilities

include roads, sewage, water, reclaimed water, and urban runoff. On February 12, 2007, the POM Policy Committee approved IOD/Fee Title language regarding Existing and Planned infrastructure and the substitution of conveyance land.

HANLEY presented the County's recommendation on future infrastructure. It is the County's position that the siting of future infrastructure – those which are not existing or described as a Planned Facility in the Chula Vista MSCP should be processed on a case-by-case basis. Conveyance documents, such as title deeds or IODS, shall not reference the siting of future infrastructure. If there is a proposal to site infrastructure within the Preserve areas, the person/entity seeking such approval shall request it from the POM who is granted the authority to allow such siting when deemed appropriate. The person seeking future infrastructure would approach POM staff. If POM staff agrees to the location then the location is approved. If POM staff fails to reach agreement, it is presented to the PMT for their consideration. If the Preserve Management Team (PMT) cannot reach approval, then it will be presented to the Policy Committee for their consideration. If the Policy Committee does not reach agreement, then the action would not pass.

WALLAR asked for clarification. WALLAR asked HANLEY if she meant to say decision vs. approval. For example if someone came to POM staff to locate infrastructure through the Preserve and POM staff jointly agreed to deny the location, there would not be a need to present this proposal to the PMT or Policy Committee.

HANLEY stated that the entity requesting the infrastructure through the Preserve may appeal it to the PMT and the Policy Committee. POM staff would be determining if the location meets the criteria listed in Policy 6.6 of Phase 1 RMP.

WALLAR clarified that if POM staff jointly agreed to deny the location, then it would not need to be presented to the PMT for consideration.

County of San Diego/RENÉE BAHL stated that although POM staff may make a decision to deny a location, the entity requesting the location the proposed infrastructure location may bring it to the PMT and/or the Policy Committee for their consideration.

TULLOCH supported BAHL'S response. POM staff may not present it to the PMT and/or Policy Committee but the entity requesting the location may.

LUNDSTEDT presented additional background on future infrastructure requests within the City. When SPA One was processing entitlement applications, the first IODs offered in 1999 included language in the IOD

allowing for the reservation of future infrastructure within the Preserve as it was allowed through the City's MSCP Plan. The RMP acknowledged that future infrastructure may be cited on necessary cross areas of the Preserve. The infrastructure plan shows sewer, water, etc. The RMP as an adopted policy document references the progress of the MSCP - a regulatory document. Any siting of future infrastructure would have to comply with criteria of the adopted MSCP Plan. Since the adoption of the RMP, the City adopted its MSCP Plan in 2003. The City's MSCP provides siting criteria for planned facilities. It also provides strict siting criteria for future infrastructure. The siting of future facilities is subject to review and approval of comments by the resource agencies. Because the County has previously acknowledged IODs including language on future infrastructure and because the policy documents recognized that the City's MSCP would require strict siting criteria, City staff proposes that conveyance documents should recognize future facilities shall be sited pursuant to the City's MSCP siting criteria; construction activities associated with future infrastructure is subject to the approval by the appropriate jurisdiction and review by the POM pursuant to Policy 6.6 of RMP Phase 1; and establish a procedure that allows POM to review and comment on the siting of future infrastructure in the Preserve. City's white paper has been included as a handout.

WALLAR stated that it isn't a surprise to anyone that she strongly disagrees with City's proposal. At least one IOD has included language containing references to future infrastructure. It was one that the County's Department of General Services had signed off on. That was signed off in error. WALLAR stated she feels very strongly that the POM is a relationship between the City and the County functioning as a working partnership in making decisions for ongoing management of the Preserve. The location of future infrastructure, meaning infrastructure that has no one has any concept of what it will be or where it should be decided jointly between the members of the POM. Siting of future infrastructure should come to POM staff first, if they can't agree that the proposed location meets the siting criteria, then it should come to the PMT. If the PMT can't agree then it should go to the Policy Committee. Feel strongly that if the Policy Committee does not come to agreement that no action passes. There are legal mechanisms that can be employed at that time for a jurisdiction to take if there is no concurrence.

TULLOCH stated that this is what was anticipated as we all knew the City and County had differing opinions. The City and the County did come to one agreement that the developer's role is not to hold the granting right to the siting of the proposed infrastructure. The jurisdiction should hold the granting right not the developer.

BAHL stated that is her understanding as well; however the attachment to the City's white paper on future infrastructure still names the developer or the "grantor" as holding the granting right.

LUNDSTEDT stated that the attachment was for historic reference purposes only as this language was what was included in previously acknowledged IODs.

BAHL asked if new language regarding future infrastructure had been drafted.

LUNDSTEDT stated that new language had not yet been drafted.

TULLOCH stated that it appears that the City and the County are in agreement that POM staff would have a chance to review the proposed location, then it would go to the PMT if agreement were not reached at the staff level, and if the PMT can't reach agreement, then it would be presented to the Policy Committee for their consideration. The question now is what happens if the Policy Committee can't reach agreement. How will the issue be resolved? When the Policy Committee considers this item, the appropriate staff should be in attendance to discuss options for the Policy Committee when they can't reach concurrence. From WALLAR'S statements earlier, the County's position is that if there is no concurrence, then no action takes place and we remain with the status quo.

WALLAR stated that she does not believe the Joint Powers Agreement includes a dispute resolution process.

County of San Diego/CLAUDIA ANZURES stated that the Joint Powers Agreement does not include a dispute resolution process but if the POM wanted to create one, it could.

TULLOCH asked, in the meantime, what is the process if the Policy Committee does not come to agreement on future infrastructure at the next Policy Committee meeting in July. They should be provided with options of what the next steps would be. The next steps should also be discussed in specificity regarding future infrastructure. WALLAR stated earlier that the agency supporting the location of a proposed infrastructure would have legal mechanisms if the POM can't come to agreement. This legal mechanism is to file condemnation against the POM. We need to be able to tell the Policy Committee this.

WALLAR agreed.

TULLOCH suggested that POM staff create a summary and a table detailing the City and County's differences regarding future infrastructure. It should include a dispute resolution process.

WALLAR requested that this summary and table be drafted by the 3rd week in June. POM staff is to have the exact written language proposed and we will have our legal counsels and attorneys look at language regarding dispute resolution.

TULLOCH stated that it would be helpful if the summary included a table that listed the County's proposal and proposed remedy and the City's proposal and proposed remedy. Something that is easy to read and understand.

WALLAR agreed. WALLAR asked that County Counsel take a look at dispute resolution language no later than the 3rd week in June so that we can send it to the City.

TULLOCH stated that City staff would work towards getting the dispute resolution language by the third week in June. The City will be working with a new City Attorney as Ann Moore is scheduled to retire next Tuesday.

TULLOCH asked if there were any comments or questions on this item.

CAMERON stated that the Otay Ranch Company has always been neutral on this item. However, Otay Ranch Company is concerned that if the POM becomes the approval authority for future infrastructure it gives either jurisdiction the opportunity to veto the other on a land use authority issue. The POM should not have approval authority. The POM should be able to review and comment as intended by the RMP.

LIBBY LUCAS asked if the RMP clearly defined what constitutes an infrastructure.

HANLEY stated yes. The RMP includes exhibits of infrastructure in the RMP. They include roads, sewers, water, gray water, etc.

LUCAS asked if there were a list of infrastructures in the RMP that clearly defined infrastructure. It is not listed under Policy 6.6. Department of Fish and Game is interested in defining essential infrastructure as this issue has come up with a project within the City of San Diego.

WALLAR directed POM staff to review the RMP and bring back a definition of what infrastructure is to the PMT.

LUCAS stated that LUNDSTEDT alluded the Wildlife Agencies will have an opportunity to review and comment on the siting of future infrastructure. LUCAS asked if the County proposes the same.

HANLEY stated that any projects proposed would have a review period for others to allow others to comment.

LUCAS asked if this is a comment period per CEQA or is the review period separate from CEQA requirements.

HANLEY stated that if the infrastructure project is a project as defined in CEQA, then the comment period is required by CEQA.

LUCAS asked what would happen if the project was not a project as defined by CEQA.

HANLEY stated that this is something that can be discussed. If POM staff agrees on a proposed location for a future infrastructure project, then we may want to consider a review period to allow others to comment.

TULLOCH stated that POM staff can work on a definition of future infrastructure. Instead of waiting for the next PMT meeting, POM staff may bring the definition forward to the next Policy Committee meeting.

WALLAR agreed.

BECK asked if no CEQA documents are required, who makes the determination of avoidance and minimization criteria.

HANLEY stated that future infrastructure projects would still need to comply with either the City or the County's MSCP.

BECK asked if there is no CEQA process, the projects would not require an alternative analysis.

HANLEY stated that these projects will most likely be considered a project under CEQA. The placement of any infrastructure through a preserve may have impact to high quality vegetation or sensitive species that the preserve is meant to protect.

BECK asked if the Wildlife Agencies will only have an opportunity to review and comment, not to concur on the project.

HANLEY stated that proposed infrastructure will be required to comply with the City and County's MSCP.

BECK asked if there are any known infrastructure plans being processed or will be processed within Otay Ranch in the near future.

HANLEY stated there were none within the County.

LUNDSTEDT stated there are no known projects within the City.

BECK asked about who was managing an area off of Telegraph Canyon road.

LUNDSTEDT stated that this land will be conveyed to the City after it meets its success criteria. Until the permit requirements are met, the land owner is required to manage the land.

BECK stated that invasive plants have grown in this area.

LUNDSTEDT clarified that this is a City MSCP issue, not a POM issue.

(V.B) HANLEY presented the Non-Otay Ranch Mitigation Land Program. Comments on the Program were heard at the last PMT meeting held on January 9th and at the last Policy Committee meeting held January 23rd. The public review period ended on April 21st. Written comments were received from Fish and Wildlife Services and Fish and Game, McMillin Companies, South Bay Expressway, Otay Land Company, and the City of Chula Vista. The PMT directed POM staff to receive written comments until April 21st, post received comments from the comment period and review and analyze comments and bring forward a recommendation to the PMT. The County concurs with the City's proposed Program.

WALLAR asked if Caltrans commented on the Program.

HANLEY stated that Southbay Expressway commented, which is a part of SR125, a Caltrans project.

WALLAR asked if Caltrans themselves commented.

HANLEY stated no.

HANLEY reviewed the eligibility and review criteria of the project. Eligibility criteria includes that the land must be located within the Otay Ranch Preserve boundary; must be associated with a project within the City or the County's jurisdiction; must provide a cost analysis; must fund the management of the land in the form of a Community Facility District; the standard of management is defined in the RMP; land must be free of environmental damage; legal and physical access must be provided; and the land must be free of encumbrances. POM will also consider the adjacency to land currently be managed by the

POM. Land would be accepted in fee title in accordance with the requirements of this Program.

HANLEY stated that POM staff recommendation is to approve the Eligibility and Review Criteria for the Non-Otay Ranch Project Mitigation Lands Program and direct POM staff to bring forward to the POM Policy Committee for their consideration.

WALLAR asked if County and City staff have full concurrence on this project.

TULLOCH stated that there may be a question on funding based on the interpretation of the allowed uses of CFD 97-2.

BAHL stated that there is only a question if the City interprets that CFD 97-2 funds can be used on all lands within the Preserve.

WALLAR stated that the question of allowed uses of the CFD would be better to discuss after we talk to the finance people.

BAHL stated that County staff agrees with City's proposal on the Non-Otay Ranch Project Mitigation Lands Program.

TULLOCH stated we could remove the language referencing CFDs that way the funding can be whatever we want it to be.

WALLAR agreed.

LUCAS asked about the allowed uses of the CFD funds. Can the funds be used on all lands within the Preserve regardless of if it has been conveyed to the POM?

WALLAR state that this needs to be discussed but later it will be more appropriate to discuss when we get to the finance portion of the meeting.

MAYER asked about mitigation for SR125. If they offered an endowment, would it be considered under the Non-Otay Ranch Program?

WALLAR stated that since Caltrans is another governmental agency, we could consider something outside of this Program since we know Caltrans will always be in existence. There is no assurance that private developers will always be in existence. The Non-Otay Ranch Program focuses more on non-governmental agency mitigation land.

MAYER stated that SR125 is not necessarily associated with a project within the City or the County.

WALLAR stated that these are suggested criteria. Since Caltrans is another governmental agency, we would also take that into consideration. The criteria are guidelines. If there was a project that did not meet the criteria, POM staff could bring it forward to the PMT and Policy Committee for consideration.

TULLOCH stated that not all of the SR125 mitigation lands are located within the Preserve boundaries. The SR125 mitigation lands wouldn't meet the criteria of the Program. Anyone can request inclusion under the Program and POM staff would review the criteria. If they didn't meet the criteria they could request that the PMT and Policy Committee consider their request.

FRANK OHRMUND asked if an endowment could be offered instead of a CFD.

WALLAR stated that endowments come with risk. If there is a shortfall in the endowment, then the question is, who pays the difference? It is not fair for those paying into CFD 97-2 to fund the management of non-Otay Ranch mitigation land.

TULLOCH stated that funding alternatives have been discussed. All funding mechanisms come with a certain level of risks. CFDs limit risks since they can be built with automatic escalators.

WALLAR stated that we should keep in mind that these are criteria. POM staff will use these criteria when making their recommendations to the PMT and Policy Committee.

TOM TOMLINSON asked if all requests will be considered by the Policy Committee.

WALLAR stated that all requests should go through the POM hierarchy since this is a policy issue. Management of land should be brought to the Policy Committee.

ANZURES stated that decision-making system for the Non-Otay Ranch Program can be set-up anyway the PMT and Policy Committee desires.

WALLAR stated that POM staff will set the Program so that the Policy Committee is the final approval authority.

TOMLINSON asked about the criteria that reads "site must be free of encumbrances." One of the conditions from the Wildlife Agencies on mitigation land is to place a conservation easement on the property. Is this considered an encumbrance?

TULLOCH stated that easements are subject to the jurisdiction's approval.

WALLAR moved to approve POM staff's recommendation.

TULLOCH seconded the motion. Motion passed.

BAHL suggested that we add language to the recommendation that the Policy Committee be the final approval authority for the Non-Otay Ranch Program.

WALLAR agreed.

TULLOCH asked if a motion was needed for the Future Infrastructure item.

WALLAR stated that consensus was not reached on the item. Direction was provided to POM staff to draft a dispute resolution process.

6. Long-Term Implementation Program

(VI.) HANLEY stated that as a part of the Long-Term Implementation Program a matrix of land management responsibilities was developed and handed out at the Working Group meeting held April 18th. The Working Group also met on May 13th and a field trip, which was well attended, was held on May 23rd. The next Working Group meeting is scheduled for this Friday, May 30th. The Program cannot be officially adopted until Phase 2 RMP is adopted by the Board of Supervisors this Fall.

HANLEY stated that during the Working Group meeting, we not only discussed land management responsibilities but also allowed use of the CFD 97-2 funds, FY 08-09 budget, and the prioritization of certain tasks.

LUNDSTEDT asked when the City would receive a copy of the revised Long-Term Implementation Program.

HANLEY stated that the language within the Long-Term Implementation Program may be updated based on discussions at the Working Group meetings. The exhibits have been updated and specific responses to comments are being worked on and will be forwarded soon.

LUNDSTEDT stated that there were specific comments made by the City that they would like addressed.

TOMLINSON stated that the Working Group meetings are a great idea. TOMLINSON requested that a Preserve circulation plan be discussed at the next Working Group meeting.

WALLAR agreed that a Preserve-wide circulation plan is a good discussion topic for the next Working Group meeting.

7. Finance

(VII.) MCNEELEY presented on the allowed uses of CFD 97-2. At the last Working Group meeting, the group discussed the allowed uses of the CFD and whether or not funds could be used on both public and private lands within the Preserve. Resolution 19110 which established the CFD states "The monitoring, maintenance, operation and management of public property in which the City has a property interest and which conforms to the requirements of the Ordinance or private property within the Otay Ranch Preserve which is required by the POM to be maintained as open space or for habitat maintenance or both....Such services shall not include the maintenance, operation and/or management of any property owned, maintained, operated and/or managed by the federal and/or state government as open space and/or for habitat maintenance." At the last Working Group meeting, City staff confirmed that the City Attorney interprets the language to mean that CFD 97-2 funds can be used to manage both public and private lands. The references were forwarded to County staff and is currently being reviewed by County Counsel.

WALLAR asked for clarification. The City Attorney opined that it is appropriate to use CFD dollars on non-Preserve land, meaning land that is not owned by the POM.

MCNEELEY stated that it is for land within the Preserve.

WALLAR asked for clarification. Does this include land not owned by the POM?

MCNEELEY stated yes. The land can be privately owned or owned by the POM.

TULLOCH stated that the resolution reads private property within the Preserve which is required by the POM to be maintained as open space or for habitat maintenance or both.

WALLAR this has huge impacts to our budget. If the CFD dollars can be used to manage any lands within the Preserve regardless of the current ownership, then the CFD would have to be increased substantially to meet those obligations.

LUNDSTEDT stated that the Resolution provides the greatest flexibility for the POM to use the money. It does not obligate the POM to use it on private property. The Joint Powers Agreement and the policies within the RMP further refine where the money should be spent and what the responsibilities are on the private side and the POM. The Resolution provides flexibility to

use funds on private property to curtail degradation of the Preserve, for example to place gates to limit access to the Preserve. It provides the flexibility but it does not obligate the POM to do so.

TULLOCH stated another example would be maintain an access road through a property that would lead you to POM owned land.

WALLAR stated that County Counsel will review the language.

LUNDSTEDT stated that the flexibility is needed to address critical restoration efforts within the Preserve such as cactus wren restoration. If the POM wants to partner with the private side, it is nice to have that flexibility.

BAHL stated that what it comes down to is what the funds are required to cover. County Counsel will need to discuss with the City's new Attorney.

WALLAR stated that the legal reps will need to discuss the interpretation of the allowed uses of the CFD.

BECK stated that we need the maximum flexibility because of the obligations that the City and the County have per the MSCP so that we don't have to invoke the statutory obligations of the Implementing Agreements. POM staff should look into the obligations of the Implementing Agreements. The cactus wren situation is an extraordinary situation that needs to be addressed.

TULLOCH stated that we need to remember what the CFD was set up for. The CFD was set up to manage land that was set aside to mitigate impacts for homes. There needs to be a nexus between why the money is being collected and how it's being spent.

BECK stated that that is fair. However, if funds are available it could contribute to solving issues.

TOMLINSON stated that it is good to have flexibility to get the entire Preserve established.

MCNEELEY reported on the FY 07-08 Budget. To date, \$108,000 have been expended. This includes operations and maintenance. An additional \$110,000 is expected to be expended for the biological surveys.

WALLAR requested that an additional column be added to the budget showing the actuals spent.

TULLOCH stated that the next Policy Committee meeting is scheduled for July 17th. TULLOCH asked staff if that was too soon to get the actuals through the Fiscal Year.

CITY OF CHULA VISTA/AMY PARTOSAN stated that the numbers should be available.

MCNEELEY presented the FY08-09 Budget. POM staff generated an updated budget for FY08-09 included as a handout. The budget is broken into Administration, Preserve Operation and Maintenance, and Resource Monitoring Program costs. Based on Working Group meetings, it was discussed that administration costs should be decreased. FY 08-09 budget shows that the Administration costs total less than 25% of the total budget – totaling \$118,500 Administration includes costs for the CFD consultant, NBS, as well as City and County staff time. The Preserve Operation and Maintenance includes costs for the County Seasonal Park Attendant as well as an improvements made to the Preserve such as fence maintenance and any equipment needed. The Preserve Operation and Maintenance totals \$47,000. The Resource Monitoring Program includes on-going and baseline surveys. This includes lands that have been conveyed to the POM. \$100,000 is budgeted for expanded/enhanced baseline surveys and \$65,000 is budgeted for on-going surveys.

WALLAR asked if the \$65,000 is new money or is that money levied from the last fiscal year.

MCNEELEY stated that this is new money. Further down the table, there is a line item for \$60,000 which is money levied from FY 07-08 and is expected to be expended in FY 08-09.

WALLAR requested that the FY 07-08 budget, the actuals year-to-date from FY07-08, and the FY 08-09 budget all be placed on the same spreadsheet.

MCNEELEY agreed.

MCNEELEY stated that \$175,000 will be used on baseline surveys for any new lands conveyed to the POM before the end of the calendar year. It is assumed that 600 acres will be conveyed to the POM by the end of this calendar year.

HANLEY stated that it could be up to 800 acres conveyed to the POM by the end of the calendar year.

WALLAR asked if the \$175,000 is sufficient to cover up to 800 acres.

HANLEY stated yes.

MCNEELEY stated that the City will levy for \$505,000 and \$60,000 will come from money levied from FY07-08. Therefore, the grand total for the FY 08-09 budget is \$565,000. The City of Chula has approved this budget. The City Council will consider the tax assessment amounts in July.

WALLAR asked if County POM staff agreed with the budget.

BAHL stated that administrative costs may be higher than what is proposed. The management and monitoring costs is what the County has recommended. County Counsel charges alone will likely be higher than proposed. The budget is a lump sum budget. There will be chargers that are higher than what is shown but hopefully not too much higher.

WALLAR stated that bottom-line, \$505,000 is adequate. We are hopeful that administrative charges be reduced but there is a possibility that they aren't reduced.

TULLOCH asked staff to report on the Reserve.

MCNEELEY stated that the Reserve is healthy at 95%.

LUNDSTEDT stated that the FY 07-08 budget had over 30% allotted for administrative costs. This is understandable since there were many policy issues that have come up. What we would like to focus on is on-the-ground work for the Preserve.

WALLAR stated that as a goal we would like to focus on on-the-ground work but we need to understand that if money is needed for administrative costs that we have the money available.

TOMLINSON stated that the POM should be cautious in limiting administrative costs. This is the start of managing POM lands and there will be administrative start up costs to do things right.

BECK stated that the budget is basically broken into administrative costs and survey needs. There are no line items for restoration and active management. Maybe the POM should consider leveraging funds with Transnet funding. The budget should be flexible for active management.

WALLAR asked if there is a need for restoration projects, can Reserve funds be used to fund those projects.

LUNDSTEDT stated that it is possible. The City Council only approves the bottom line number, \$505,000 for FY 08-09. How that budget is distributed is

up to the discretion of the POM. We could use Reserve funds, but we wouldn't have to. We could re-prioritize the line items in the budget to accommodate restoration projects.

TULLOCH asked if the FY 08-09 budget hits the maximum assessment amount.

PARTOSAN stated that City Finance staff is in the process of determining this. We should know by the end of the week.

TULLOCH stated that if we hit the maximum that is the time that we can go into the Reserve if we do not reprioritize the tasks. Because the budget is a lump sum, then we can reprioritize projects and needs.

BECK stated that the current budget does not show a line item for active management. There should be a public forum to discuss the use of the CFD funds.

TULLOCH stated that the budget is being discussed at public forums including the Working Group, PMT, and Policy Committee meetings. If there is a proposed budget from the public then it should be brought to the Policy Committee.

BAHL respectfully suggested that any proposed budget be brought to the Working Group meeting to be discussed openly. The \$110,000 for biological surveys is encumbered and obligated in a contract. The additional \$100,000 is to enhance the baseline survey. There is an opportunity but not a requirement to use the \$100,000 for our current contract. This is money that we can discuss to use for priority projects. The \$65,000 is intended for on-going surveys on land the POM owns. Although that is the intent, it is not currently obligated towards any contract. There is opportunity to discuss the use of these funds. I suggest that priority projects be discussed at the next Working Group meeting. At that time the group can discuss the costs for each priority project. The group will also have to consider the policies and intent of the RMP.

WALLAR asked when the next Working Group meeting is scheduled for.

HANLEY stated this Friday, May 30th.

WALLAR stated that the next Working Group meeting would be a good place to discuss the prioritization of projects and how the funds should be used.

LUCAS asked if the Board of Supervisors approves the budget.

WALLAR stated no. The CFD is levied by the City so the City Council approves the budget. The Board of Supervisors does not take any action on the budget.

MAYER stated that the burrowing owl should be considered in the budget. POM money could be used to perform baseline surveys and identify possible restoration sites.

WALLAR asked that this be discussed at the Working Group meeting.

TULLOCH asked that the budget be reviewed by the Working Group. Then the Policy Committee will review the line items and approve any modifications.

WALLAR stated that there shouldn't be any modifications as long as the budget is within the bottom line number. They would only need to modify the budget if the total is more than the bottom line.

TULLCOH stated that the City Council has already taken action on the bottom line number.

BAHL stated that POM staff will report on the budget but that the Policy Committee does not need to take action on it.

TULLOCH stated that it is important for the Policy Committee to see the budget.

WALLAR requested a 5-year forecast of the budget.

MCNEELEY agreed.

WALLAR asked that this be brought forward to the next PMT meeting.

WALLAR asked how foreclosures impact the collection of CFD funds.

PARTOSAN stated that the CFD is a maintenance district not a bonded district. That means that the City is next in line after the County in recouping funds. The County would collect funds and pay out bonds as needed. The City would be next in line for collection.

WALLAR stated that foreclosures could affect assessment collection amounts.

PARTOSAN stated it could however the City takes foreclosures into consideration when setting the budget.

WALLAR asked when we will know how much of an impact foreclosures had on the FY07-08 budget.

PARTOSAN stated twice a year after each installments are due. Typically we will know in January and in May. Some people don't pay their first installment and wait to pay both installments in April.

WALLAR requested that the impacts of foreclosures be reported at the next PMT meeting.

8. Proposed Policy Committee Agenda for July 17, 2008
(VIII.) TULLOCH stated he had no changes to the proposed agenda.

WALLAR motioned to approve the Policy Committee agenda for July 17, 2008.

TULLOCH seconded the motion. Motion passed.

9. Next Meeting
(IX.) TULLOCH asked if there were any other items that any one wanted to discuss. No items were brought forward for discussion.

TULLOCH stated that the next PMT meeting is scheduled for Friday, September 12th at the County Administration Center, Tower 7 from 2-4pm.

10. Adjournment
(X.) Motion to adjourn by WALLAR at 11:47am.

Motion seconded by TULLOCH.

Motion carried.

ATTACHMENT A

MEETING SIGN-IN SHEET

Project: Otay Ranch Preserve Owner/Manager (POM)
Policy Committee Meeting

Meeting Date/Time: May 28, 2008, 10:00am – noon

Place/Room: 1800 Maxwell Road, Lunch Room, Chula Vista, CA 91911

[illegible]